

REMARKS

Claims 1-15 and 17-25 are cancelled herein. Claims 16 is amended and claims 26-50 are new. Thus, claims 16 and 26-50 are pending.

Restriction Requirement

In the Office Action of October 3, 2006, the Examiner required the following restriction under 35 U.S.C. §121:

- Group I: Claims 1-7, drawn to a polynucleotide, a vector containing same, a host cell thereof, and a method of recombinantly producing the encoded polypeptide.
- Group II: Claims 8-10, drawn to a method of hybridization, and a kit containing a polynucleotide fragment (probe) for hybridization.
- Group III: Claims 11, 12, and 15, drawn to a binding composition, and a kit containing same.
- Group IV: Claims 13 and 14, drawn to a method of detecting an antigen with an antibody.
- Group V: Claims 16-18, drawn to a polypeptide.
- Group VI: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an agonist of IL-D80, or in combination with an IL-12 agonist.
- Group VII: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an agonist of IL-D80, or in combination with an IL-12 antagonist.
- Group VIII: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an antagonist of IL-D80, or in combination with an IL-12 agonist.
- Group IX: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an antagonist of IL-80, or in combination with an IL-12 antagonist.
- Group X: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an agonist of IL-27, or in combination with an IL-12 agonist.

- Group XI: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an agonist of IL-27, or in combination with an IL-12 antagonist.
- Group XII: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an antagonist of IL-27, or in combination with an IL-12 agonist.
- Group XIII: Claims 19 in part, and 20 in part, drawn to a method of modulating a cell activity with an antagonist of IL-27, or in combination with an IL-12 antagonist.
- Group XIV: Claim 21, drawn to a composite comprising a plurality of segments of said polypeptides.
- Group XV: Claim 22, drawn to an isolated polynucleotide encoding the composite.
- Group XVI: Claim 23, drawn to a binding composition binding an antigenic fragment of composite comprising a plurality of segments of said polypeptides.
- Group XVII: Claim 24, drawn to a receptor subunit:ligand composition.
- Group XVIII: Claim 25, drawn to a binding composition binding to the receptor subunit:ligand composition.

The restriction requirement further requires that:

- A. If one group is elected from Groups I-XIII, the Applicants must further elect one specific polypeptide with SEQ ID NO from the following: SEQ ID NO: 2, 4, 6 or 8.
- B. If one group is elected from Groups XIV-XVIII, the Applicants must further specify which SEQ ID NOs (2, 4, 6, 8, 10 and 12) are included in the composite, or in the receptor subunit:ligand composition.

In response, the Applicants provisionally elect Group V with traverse. Group V includes claims 16 and 26-50 as amended. The Applicants also provisionally elect, with traverse, SEQ ID NO: 2. The restriction is respectfully traversed for the reasons set forth below.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (a) The inventions must be independent or distinct as claimed; and

(b) There would be a serious burden on the examiner if restriction is not required.

See MPEP §803 (Rev. 5, Aug. 2006). "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." *Id.*

The Applicants respectfully request that the Examiner consider all claims as amended. The Examiner is respectfully reminded that if the composition claims are found to be patentable, methods of making and using the composition are also patentable. See MPEP §821.04(b) (Rev. 5, Aug. 2006). Thus, method claims 41-50 are patentable if claims 16 and 26-40 are patentable (and the methods claims should be rejoined to the compositions claims if these claims are restricted in the future). Furthermore, the Applicants respectfully point out that searching four sequence listings having significantly similar sequences is not burdensome.

At a minimum, the Applicants respectfully request that SEQ ID NO:6 be rejoined with SEQ ID NO: 2, based on the high degree of sequence identity between SEQ ID NOs:2 and 6 (*see, e.g.*, Figure 1 of the specification in which sequence 2 is SEQ ID NO:2 and sequence 8 is SEQ ID NO:6). The Applicants submit that no serious burden would exist to examine claims encompassing these sequences together. That no serious burden would result in examining these two sequences together was recognized in the parent case to this application (U.S. Ser. No. 10/000776), in which a restriction between SEQ ID NO:2 and 6 was withdrawn and the sequences were examined together. Thus, rejoinder of these sequences is requested.

Claim Amendments

No new matter is believed to be added by the claim amendments and new claims. Support for the amendments to claim 16 and new claims 26-32 can be found, in addition to other portions of the specification, in the claims as originally filed and paragraphs [0040] and [0043]. Support for new claim 33 can be found, in addition to other portions of the specification, in paragraphs [0066] and [0085]. Support for new claim 34, 35, and 36 can be found, in addition to other portions of the specification, in paragraphs [0057] and [0145]. Support for new claim 37

can be found, in addition to other portions of the specification, in paragraphs [0020] and [0052]. Support for new claims 38 and 39 can be found, in addition to other portions of the specification, in paragraph [0051]. Support for new claim 40 can be found, in addition to other portions of the specification, in paragraphs [0017], [0045], and [0123].

Support for new claim 41 can be found, in addition to other portions of the specification, in the claims as originally filed and paragraphs [0040], [0043], [0123] and [0126]. Support for new claim 42 can be found, in addition to other portions of the specification, in paragraph [0123]. Support for new claim 43 can be found, in addition to other portions of the specification, in paragraph [0038]. Support for new claims 44-50 can be found, in addition to other portions of the specification, in paragraphs [0040] and [0043].

The Applicants request that the claim amendments made by this Response to Restriction Requirement and Preliminary Amendment be entered prior to examination and that all claims be examined in view of the amendments.

Early examination of this Application is respectfully requested. The Examiner is invited to call the undersigned at 404-724-2808 in the event that a telephone conversation could expedite the prosecution of this application.

Included with this response is a Petition for a one-month Extension of Time. The Extension of Time fee and the one excess dependent claim fee are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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Tina William McKeon

Tina William McKeon
Reg. No. 43,791

Fish & Richardson P.C.
1180 Peachtree Street, N.E.
21st Floor
Atlanta, GA 30309
Telephone: (404) 892-5005
Facsimile: (404) 892-5002